

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FRISKIT, INC.,

No. C 03-5085 WWS (MEJ)

Plaintiff,

vs.

**ORDER AMENDING THIS COURT'S
SEPTEMBER 13, 2005 ORDER RE: DISPUTE
OVER JOINT LETTER BRIEF**

REALNETWORKS, INC., and LISTEN.COM.,

Defendants.

On September 13, 2005, the Court conducted a telephonic conference regarding parties' various discovery dispute letters. Many of these letters were not submitted jointly as required by this Court's standing order¹. Therefore, the Court shall not address any discovery issues in which discovery dispute letters were not submitted *jointly*.² Rather, the parties are ORDERED to meet and confer on all remaining issues (including those outlined in Defendants' September 6, 2005 letter) for which parties failed to submit joint discovery dispute letters.

Also at the telephonic conference, Defendants claimed that they had provided Plaintiff with their portion of a letter brief; however, Plaintiff has yet to provide its portion of the letter brief to Defendants.

After careful consideration of parties' various letters, filed separately, and oral arguments made

¹ Parties also have two separate joint discovery letters: 1) regarding Friskit's infringement contentions, dated July 29, 2005; and 2) regarding a motion to compel production of documents, and inspect Friskit's storage lockers, filed August 15, 2005. Both disputes shall be discussed in separate orders.

² Friskit filed its letter dated August 10, 2005, regarding a motion to compel discovery related to Real's Revenue. In a separate letter, Defendants submitted their response on September 6, 2005. Parties submitted a "joint" letter dated August 26, 2005, regarding a motion to compel discovery related to content providers, however, Defendants' portion was non-substantive, but rather an email response as to why their portion was missing.

1 during the telephonic conference call, the Court hereby ORDERS as follows:

- 2 1) Plaintiff shall produce its portion of the joint letter brief seeking to compel an additional day
3 of Mr. Eyal's deposition by September 15, 2005 so that a joint letter brief can be submitted
4 to the Court;
- 5 2) Parties shall meet and confer on all pending discovery dispute issues, including those
6 outlined in Defendants' September 6, 2005 letter, which were not submitted to the Court in
7 a joint letter; and
- 8 3) If parties are unable to resolve said issues, parties shall meet and confer, in person, on
9 September 29, 2005 at 9:00 a.m. in chambers.

10
11 IT IS SO ORDERED.

12 Dated: September 14, 2005



13 MARIA-ELENA JAMES
14 United States Magistrate Judge